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OFFICE OF PETITIONS

In re Application of Irving et al. :
Application No. 10/619,101 : Decision on Petition
Filing Date: July 14, 2003 :
Attorney Docket No. 3800.05 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 2, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 29, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on March 30, 2006. A Notice of Abandonment was mailed on July 13, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Timothy Rooney signed the petition. Rooney was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Rooney was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Rooney that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.¹ In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a proper request to change the

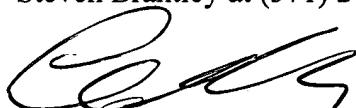
¹ See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Petitioner's deposit account was charged \$510 for a three-month extension of time. However, payment for an extension of time is unnecessary when reviving an application. Therefore, the fee of \$510 will be credited back to petitioner's deposit account.

Technology Center Art Unit 2161 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions